



BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
WILFRED A. AND )  
BETTY J. MEACHAM )

For Appellants: Wilfred A. Meacham, in pro. per.

For Respondent: Crawford H. Thomas  
Chief Counsel

Paul J. Petrozzi  
Counsel

## OPINION

This appeal is made pursuant to section 18594 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Wilfred A. and Betty J. Meacham against a proposed assessment of additional personal income tax in the amount of \$135.23 for the year 1968.

Anneal of Wilfred A. and Bettv T. Meacham

The appellants are residents of Morro Bay, California. Mr. Meacham is a teacher and, in 1968, he was granted a sabbatical leave by the San Luis Obispo Coastal School District. During the leave, appellants and their family traveled to the State of Maryland. where he did some work for the Board of Education in Annapolis.

On April 15, 1969, appellants filed a California non-resident personal income tax return for the year 1968. The return reported a gross income of \$15,623.97. Income attributed to Maryland in the amount of \$3,300 was subtracted and appellants claimed a \$124 credit for income taxes paid to the State of Maryland.

Respondent determined that appellants were residents of California in 1968 and, therefore, they were not entitled to the tax credit. Accordingly, on October 26, 1971, respondent issued a proposed assessment of additional personal income tax in the amount of \$135.23. Appellants protested the proposed assessment. The gist of their protest was that they had merely completed and filed the tax form which had been sent to them by respondent, and that the amount assessed was out of line with the amount of tax paid in previous years. Subsequently, on March 30, 1972, appellants filed an amended 1968 return. In the latter, the appellants utilized Form 540 and purported to report their income tax liability as residents of California. No credit for taxes paid to Maryland was claimed. In their amended return, appellants listed adjusted gross income in the amount of \$10,680.79, and set forth other figures which appear irreconcilable with the amounts set out in the original return. No explanation of these discrepancies have been made by appellants. On May 18, 1972, appellants filed a "Duplicate" amended Form 540 return for 1968. This return is essentially the same as the prior amended return. On June 23, 1972, respondent denied the protest and this appeal followed.

We believe respondent properly concluded that appellants were residents of California in 1968 and that they were not entitled to the credit for income taxes paid to the State of Maryland. The facts in the record clearly support these conclusions and appellants appear to acquiesce in them. Section 17014, subdivision (b), of the Revenue and Taxation Code defines a resident to include "[e]very individual domiciled in this State who is outside the State for a temporary or transitory purpose." By the terms of the statute and the applicable regulations, it is clear that appellants remained residents and domiciliaries of California during the period that they lived in Maryland.

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With respect to the tax credit, subdivision (b) of section 18001 of the Revenue and Taxation Code expressly provides that such a credit is not available to California residents where the foreign state allows credit against its tax for tax imposed by California on the same funds. Since the State of Maryland provides a credit for tax paid in California on the funds taxed in Maryland (Md. Ann. Code, art. 81, §291), appellants, as California residents, are not entitled to tax credit for personal income tax paid to the State of Maryland.

In reviewing the record, we gather that appellants' only real concern is whether the proposed assessment is in the correct amount. With this in mind, we have carefully reviewed the record and we believe the proposed amount is accurate and proper. In any event, a determination by the Franchise Tax Board is presumed correct and the burden of proving it incorrect is on the taxpayer. (Todd v. McColgan, 89 Cal. App. 2d 509 [201 P. 2d 414].) Here the appellants have not shown that the proposed assessment is erroneous in any particular. Under the circumstances, respondent's action must be sustained.

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

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IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Wilfred A. and Betty J. Meacham against a proposed assessment of additional personal income tax in the amount of \$135.23 for the year 1968, be and the same is hereby sustained.

Done at Sacramento, California, this 19 day of August 1975, by the State Board of Equalization.

John W. Lynch, Chairman  
William B. Berger, Member  
George J. Henry, Member  
Robert H. H. H., Member  
\_\_\_\_\_, Member

ATTEST: W. W. Dunlop, Executive Secretary